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May 31, 2017

VIA ECF

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 723
New York, New York 10004-1408
Bernstein.chambers@nysb.uscourts.gov

Re: *In re Bernard L. Madoff Inv. Sec. LLC – Request for Deposition Testimony of Bernard L. Madoff*

Dear Judge Bernstein:

We are counsel to Irving H. Picard (the “Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the estate of Bernard L. Madoff (“Madoff”). We write to request additional testimony from Madoff pursuant to the Order Authorizing the Deposition of Bernard L. Madoff¹ and the Order Authorizing the Continued Deposition of Bernard L. Madoff² (collectively, the “Madoff Deposition Order”).

Under the Madoff Deposition Order, the parties may seek additional testimony from Madoff after the conclusion of the Day 1 Deposition Topics. *See* ECF 14213 at ¶ C. The Madoff Deposition Order states:

Within twenty one (21) calendar days following receipt of the transcript, counsel for the Trustee and/or the Participating Customers may file with

¹ *SIPC v. BLMIS*, No. 08-01789 (SMB) (Bankr. S.D.N.Y. Sept. 29, 2016), ECF No. 14213.

² *Id.* (Bankr. S.D.N.Y. Jan. 19, 2017), ECF No. 14905. Capitalized terms referenced but not defined herein shall have the meanings ascribed in the Madoff Deposition Order. This request applies to all Participating Customers in the adversary proceedings identified in Exhibit A to the Madoff Deposition Order dated September 29, 2016.

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the Court a request for a second deposition day, specifically identifying any proposed deposition topics (the “Day 2 Deposition Topics”).

Madoff was deposed by the Participating Customers on December 20, 2016, and the majority of April 26, 2017. Trustee’s counsel cross-examined Madoff for a limited time on April 26, 2017. On April 27, 2017, Madoff was further cross-examined by Trustee’s counsel, and the Participating Customers conducted redirect examination. Both parties concluded their examination on the Day 1 Topics on April 27, 2017. Consistent with the Madoff Deposition Order, the Trustee hereby requests additional testimony from Mr. Bernard Madoff on the following proposed Day 2 Deposition Topic:

1. Testimony concerning the statements contained in the Federal Bureau of Investigation form FD-302 (the “302 Statement”) memorializing a proffer meeting with Bernard Madoff on December 16, 2008.

The Trustee is available for a conference with the Court to discuss the foregoing, if necessary.

Respectfully Submitted,

/s/ David J. Sheehan

David J. Sheehan
Partner

Cc: Helen Chaitman, Esq.
Carole Neville, Esq.
Robert Rich, Esq.
Andrew Kratenstein, Esq.